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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JERRY ELSTER,

No. C 08-03279 WHA

Petitioner,

v.

ROBERT AYERS JR.,

**ORDER DENYING MOTION
FOR CERTIFICATE OF
APPEALABILITY**

Respondent.

This is a habeas case under 28 U.S.C. 2254 filed by a state prisoner. The petition was denied on its merits in an order dated June 12, 2009. Judgment was entered that day. Petitioner now moves for a certificate of appealability (“COA”).

A petitioner may not appeal a final order in a federal habeas corpus proceeding without first obtaining a certificate of appealability (formerly known as a certificate of probable cause to appeal). *See* 28 U.S.C. 2253(c); Fed. R. App. P. 22(b). A judge shall grant a certificate of appealability “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. 2253(c)(2). The certificate must indicate which issues satisfy this standard. “Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 120 S.Ct. 1595, 1604 (2000). For the reasons set out

1 in the ruling on the petition (Dkt. No. 19), jurists of reason would not find the result debatable
2 or wrong. The motion for a certificate of appealability (docket number 34) is **DENIED**.

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4 **IT IS SO ORDERED.**

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6 Dated: August 3, 2010.

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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE